

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

CENTRAL DIVISION, 220 W. BROADWAY, SAN DIEGO, CA 92101-3814
 EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020-3941
 NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081-6695
 SOUTH COUNTY DIVISION, 500 THIRD AVE., CHULA VISTA, CA 91910-5649

**GENERAL INFORMATION FOR PETITIONS TO SEAL AND DESTROY ARREST RECORDS
 PURSUANT TO PC851.8**

Penal Code Section 851.8 allows for sealing and destruction of **arrest** records (excluding infractions). For inquiries relating to sealing court documents, contact an attorney or further research may be conducted at a local Law Library.

Statutory Criteria	PC851.8(a) No Case filed	If no case was ever filed with the court, the petitioner is required to submit a petition to the arresting law enforcement agency having jurisdiction over the offense to destroy its records of the arrest. Contact the Department of Justice for the appropriate form at (916) 227-3832.
	PC851.8(b) No Case filed – Petition denied or no response from the arresting agency	If after petitioning the law enforcement agency, the petition to seal and destroy arrest records is denied, or 60 days has elapsed from the date of filing with the arresting agency and no response has been received, the petitioner may submit a Petition for Sealing and Destruction of Arrest Records to the court. A petition may be obtained from the court having jurisdiction over the matter.
	PC851.8(c) Case dismissed – No conviction	In any case where a person has been arrested and an accusatory pleading has been filed but no conviction has occurred, the defendant may, at any time after dismissal of the action, petition the court which dismissed the action for a finding that the defendant is factually innocent of the charges for which the arrest was made.
Filing Criteria	PC 851.8(l) Statutory time frames	For arrests occurring on or after January 1, 1981, and for accusatory pleadings filed on or after January 1, 1981, petitions for relief under this section may be filed up to two years from the date of the arrest or filing of the accusatory pleading, whichever is later. Until January 1, 1983, petitioners can file for relief under this section for arrests which occurred or accusatory pleadings which were filed up to five years prior to the effective date of the statute. Any time restrictions on filing for relief under this section may be waived upon a showing of good cause by the petitioner and in the absence of prejudice.
Application	Location	The petition must be filed with the court having jurisdiction over the matter.
	Form	Court policy requires filing a "Petition for Sealing and Destruction of Arrest Records" and a declaration for all applications for sealing and destruction of arrest records. If applicable, a copy of the denied petition from the law enforcement agency must also be included (Form #BCII-8270).
	Supporting documents	It is the responsibility of the petitioner to submit to the court any declarations, affidavits, police reports or other evidence that may exist to support the petition.
	Notice to the Prosecuting Agency	The petitioner shall serve a copy of the petition on the prosecuting agency of the county having jurisdiction over the offense at least 10 days prior to the hearing.
Older Records	<p>Since Government Code Section 68152 allows that court records be destroyed after ten (10) years, the court may not be able to process a petition filed more than ten years after a case has been adjudicated, unless documentation of the appropriate court records can be provided. The following documentation is acceptable:</p> <ul style="list-style-type: none"> ▶ Certified copies of the complaint, conviction, and clerk's minutes in the case. ▶ A Department of Justice abstract of the defendant's criminal history, which may be obtained by contacting: <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div> Department of Justice Records Review Unit P.O. Box 903417 Sacramento, CA 94203-4170 </div> <div> Telephone: (800) 952-5225 Email: http://caag.state.ca.us </div> </div> 	
Granting of the Petition	<p>Upon granting the petition, the law enforcement agency having jurisdiction over the offense, the Department of Justice, and any law enforcement agency which arrested the petitioner or participated in the arrest of the petitioner, shall be ordered to seal their records of the arrest and the court order to seal and destroy such records; and shall three years from the date of the arrest destroy their records of the arrest and the court order to seal and destroy such records.</p> <p>The court will further order the law enforcement agency having jurisdiction over the offense and the Department of Justice to request the destruction of any records of the arrest which they have given to any local, state, or federal agency, person or entity. Each state or local agency, person or entity within the State of California receiving such a request shall be ordered to destroy its records of the arrest and the request to destroy such records.</p>	

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